

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
KOOTENAI RIVER BASIN (76D)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Quirk Cattle Co.

OBJECTOR: Quirk Cattle Co.

CASE 76D-0128-R-2022

76D 118105-00	76D 134521-00
76D 118107-00	76D 30127056
76D 118121-00	76D 30127057
76D 118125-00	76D 30127058
76D 118128-00	76D 30127059
76D 118129-00	

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Water Right Claims 76D 118105-00, 76D 118107-00, 76D 118121-00, 76D 118125-00, 76D 118128-00, 76D 118129-00, 76D 134521-00, 76D 30127056, 76D

30127057, 76D 30127058, and 76D 30127059 appeared in the Preliminary Decree for the Kootenai River Basin (Basin 76D) issued May 6, 2021. Several of these claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim. Each of these claims, except Claim 76D 118107-00, received an objection filed by Claimant.

The Court consolidated these claims into Water Court Case 76D-0128-R-2022 on October 25, 2022. The consolidation order set a deadline by which Claimant was to file information resolving the self-objections. Claimant filed a response on December 1, 2022. The Court issued an order on February 9, 2023 setting a deadline for Claimant to address several additional issues. Claimant filed a response on March 2, 2023.

FINDINGS OF FACT

1. Claim 76D 118105-00 appeared with the following issue remarks:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NENWSE SEC 18 TWP 37N RGE 26W LINCOLN COUNTY.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 483.93 ACRE-FEET PER YEAR.

2. Claim 76D 118107-00 appeared with the following issue remarks:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 426.42 ACRE-FEET PER YEAR.

3. Claims 76D 118128-00 and 76D 118129-00 appeared with the following issue remarks:

MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE

ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT
AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

4. Claims 76D 30127056, 76D 30127057, 76D 30127058, and 76D 30127059
each appeared with the following issue remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 76D
DECREE ISSUED 3/22/1984.

5. Claim 76D 30127058 also appeared with the following issue remark:

NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

6. Regarding the point of diversion of Claim 76D 118105-00, Claimant states
it agrees with the legal land description proposed in the issue remark.

7. The point of diversion of Claim 76D 118105-00 should be described as
NENWSE of Section 18, T37N, R26W.

8. Regarding the maximum volume of Claim 76D 118105-00, Claimant states
it agrees with the volume quantification proposed in the issue remark.

9. The maximum volume of Claim 76D 118105-00 should be described as
483.93 acre-feet per year.

10. Regarding the maximum volume of Claim 76D 118107-00, Claimant states
it agrees with the volume quantification proposed in the issue remark.

11. The maximum volume of Claim 76D 118107-00 should be described as
426.42 acre-feet per year.

12. Claimant states it accepts the names of sources and ditch names listed on
the Preliminary Decree abstracts of Claims 76D 118128-00 and 76D 118129-00.

13. Claimant asserts that acreage of Place of Use No. 1 of Claim 76D 134521-
00 should be described as 240 acres. As support, Claimant included the Declaration of
Leland Driggs.

14. Mr. Driggs states he is the president of Quirk Cattle Co. He states he has
been associated with Quirk Cattle Co. since 1968 and has undertaken management
responsibilities of the company since 1978. Mr. Driggs further states he has knowledge
and understanding of historical irrigation practices of the company. Mr. Driggs discusses
water shortages caused by misappropriation of water upstream which resulted in

difficulty or impossibility of irrigating portions of Section 24. Mr. Driggs explains that legal rulings resulted in increased flows in Derozier Creek and Indian Creek.

15. Mr. Driggs discusses plans to install piping to convey water to Place of Use No. 1, explaining as follows:

13. Due to the restoration of these historical irrigation flows from both Derozier Creek and Indian Creek, Quirk Cattle Company has purchased approximately 3,000 feet of gated pipe for use in conveying the water around the northern point of the hill in Section 24 and resuming the historical irrigation of Quirk Cattle Company property in Section 24. This gated pipe will be installed in 2023. This is not an “increase” in the irrigated acreage in Place of Use ID No. 1 – it is a restoration of Quirk Cattle Company’s historical irrigated acreage in that place of use.

16. Claimant originally claimed 240.00 acres in Place of Use No. 1 according to the original Statement of Claim filed in 1981. The DNRC appears to have reduced this acreage figure during verification. Mr. Driggs states that 240.00 acres were historically irrigated using a ditch and flume system.

17. The acreage of Place of Use No. 1 of Claim 76D134521-00 should be quantified as 240.00 acres. The maximum acres should be modified to 500.00 acres to reflect the adjustment in the acreage of Place of Use No. 1.

18. Claimant states the source names of Claims 76D 118121-00, 76D 118125-00, 76D 30127056, 76D 30127057, 76D 30127058, and 76D 30127059 are acceptable pursuant to the Claims Examination Manual and Water Right Claims Examination Rules.

19. Claimant states the following regarding the missing flow rate of Claim 76D 30127058:

2. **Claim 76D 30127058:** Noting that no quantified flow rate has been claimed, the Court requested that Claimant file information regarding the historical flow rate of this claimed water right.

This was one of several exempt stockwater rights filed by Quirk Cattle Company just prior to the filing deadline of June 30, 2019. See Exhibit 1, Statement of Claim for Existing Water Right, EXEMPT STOCK USE, June 27, 2019; see also Claim Nos. 76D 30127056, 30127057, 30127059 and 30127060. The claimed means of diversion 76D 30127056 was livestock drinking directly from the source. Exhibit 1, Section 6.

Quirk Cattle Company submits that no flow rate should be decreed, pursuant to Montana Claim Examination Rule 24(b)(2), which provides:

There will be no flow rate guideline for stock drinking directly from the source either directly, from a ditch system, or from an undeveloped spring. For these types of stock use, a specific flow rate will not be decreed. A remark shall be added to the water right abstract.

Example: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

20. The Preliminary Decree abstract of Claim 76D 30127058 lists the source type as “groundwater” and the means of diversion as “developed spring.” However, the right consists of stock drinking directly from the spring and does not use any man-made development.

21. Based on Claimant’s response and a review of the Statement of Claim for Claim 76D 30127058, the means of diversion should be listed as “livestock direct from source.” The source type should be “surface water.” The standard flow rate information remark proposed by Claimant should be added to the flow rate of Claim 76D 30127058.

22. The issue remarks should be removed from the above-captioned claims.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

4. The Water Court has the authority to hear all objections to the elements of any claim included in a Court issued Temporary Preliminary Decree or Preliminary Decree. Section 85-2-233, MCA.

5. A “developed spring” is a spring with some man-made development at or below the point of extrusion that brings additional flow to the surface. An “undeveloped spring” is a spring which does not have a man-made development at the point of extrusion. Undeveloped springs are classified as surface water. Rule 2(a)(64), W.R.C.E.R.

CONCLUSIONS OF LAW

1. The changes to Claims 76D 118105-00 and 76D 118107-00 described in the Findings of Fact may be made because the information in the record overcomes the prima facie status of each claim by a preponderance of the evidence.
2. The Court may change the acreage of Place of Use No. 1 and the maximum acreage of Claim 76D 134521-00 as described in the Findings of Fact because the evidence is sufficient to support reinstating the originally claimed 240 acres for Place of Use No. 1.
3. The changes to Claim 76D 30127058 described in the Findings of Fact may be made because such changes conform the claimed elements to the relevant Water Right Claims Examination Rules.
4. The information in the record and proposed changes provide the Court with a sufficient basis to remove each issue remark from each above-captioned claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic mail:

Scott D. Hagel
Crowley Fleck PLLP
PO Box 759
Kalispell, MT 59903
shagel@crowleyfleck.com

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118105-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: SEPTEMBER 8, 1893

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

Volume: 483.93 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 261.00

Source Name: DEROZIER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWSE	18	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: SECTION 18 DITCH NO. 2

Period of Use: APRIL 1 TO DECEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	84.00		S2	18	37N	26W	LINCOLN
2	90.00		W2	18	37N	26W	LINCOLN
3	87.00		N2	19	37N	26W	LINCOLN
Total:	261.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00			

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118105-00

118106-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118107-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: JUNE 26, 1896

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

Volume: 426.42 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 391.00

Source Name: DEROZIER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSESW	19	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2SW	19	37N	26W	LINCOLN

Total: 391.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00			

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118121-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: MAY 10, 1918

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF MEADOW CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NE	25	35N	27W	LINCOLN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: APRIL 1 TO OCTOBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NE	25	35N	27W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118125-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 40.39 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: SPRING, UNNAMED TRIBUTARY OF KSANKA CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		E2SWNW	32	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			E2SWNW	32	37N	26W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118128-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: FILED

Purpose (use): DOMESTIC

Flow Rate: 40.39 GPM

Volume: 2.00 AC-FT

Households: 2

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNWSE	30	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: SECTION 30 DITCH NO. 2

Period of Use: JANUARY 1 TO DECEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWNWSE	30	37N	26W	LINCOLN

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118104-00 118113-00 118117-00 118128-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118104-00 118113-00 118118-00 118128-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118129-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: MARCH 25, 1899

Type of Historical Right: FILED

Purpose (use): DOMESTIC

Flow Rate: 40.39 GPM

Volume: 2.00 AC-FT

Households: 2

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SE	30	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH NO. 1

Period of Use: JANUARY 1 TO DECEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SW	30	37N	26W	LINCOLN

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118112-00 118129-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 134521-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: APRIL 24, 1899

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 500.00

Source Name: DEROZIER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSESW	19	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	240.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2SW	19	37N	26W	LINCOLN
Total:	500.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00			

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30127056 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: NATURAL PIT, UNNAMED TRIBUTARY OF INDIAN CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS WEST MEADOW LAKE

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESENE	25	37N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESENE	25	37N	27W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30127057 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: NATURAL PIT, UNNAMED TRIBUTARY OF DEROZIER CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS TIMBERED BOTTOM POND

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENE	13	37N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SENE	13	37N	27W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30127058 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: SPRING, UNNAMED TRIBUTARY OF INDIAN CREEK

Source Type: SURFACE WATER
ALSO KNOWN AS HORSESHOE SPRING

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESESE	30	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NESESE	30	37N	26W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30127059 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: SPRING, UNNAMED TRIBUTARY OF INDIAN CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS DUGOUT SPRING

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSE	30	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWSE	30	37N	26W	LINCOLN